



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/783,720	02/14/2001	Myles S. Douglas	ENDOLOG.004C2	2203

20995 7590 09/30/2002

KNOBBE MARTENS OLSON & BEAR LLP  
2040 MAIN STREET  
FOURTEENTH FLOOR  
IRVINE, CA 92614

EXAMINER

HO, UYEN T

ART UNIT PAPER NUMBER

3731

DATE MAILED: 09/30/2002

10

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/783,720

Applicant(s)

DOUGLAS, MYLES S.

Examiner

(Jackie) Tan-Uyen T. Ho

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 18-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4, 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of Group I in Paper No. 9 is acknowledged.

***Information Disclosure Statement***

2. The information disclosure statement filed 03/30/2001 and 4/15/2002 has been considered and placed in the application file.

***Claim Objections***

3. Claim 3 is objected to because of the following informalities: "said first and second hollow tubular members" should be "said first and second hollow tubular limb members". Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily

Art Unit: 3731

published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1-3 and 11-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Cox et al. (5,824,040).

In regard to claim 1, Cox et al. disclose a bifurcated graft (fig. 13) including a hollow tubular body member (192) having first and second open ends, first and second hollow tubular limb members (190), each having first and second open ends and connected to the hollow tubular body member such that a length of the limb members are circumferentially contained within the hollow tubular body member (fig. 13).

In regard to claim 2, the first and second hollow tubular limb members have approximately equal diameter and the diameter smaller than a diameter of the hollow tubular body member (fig. 13).

In regard to claim 3, the first and second hollow tubular limb members extend beyond the second end of the hollow tubular body member (fig. 13).

In regard to claims 11-13, Cox et al. disclose in embodiment illustrated in figure 12, a bifurcated graft including the first and second hollow tubular limb members are seamlessly attached to one another along a portion of a circumference of their first open ends and at least a portion of the first open ends of the first and second hollow tubular limb members attached to a portion of a circumference of an end of the hollow tubular body member (fig. 12).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 4-10, 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cox et al. '040. In the embodiments illustrated in figures 12 and 13, Cox et al. disclose all the limitations of the claims, as disclosed above in paragraph 5. Although, Cox et al. fail to disclose the bifurcated vascular graft of the embodiments illustrated in figures 12 and 13 including stents and structural support at each ends of the hollow tubular body member and the hollow tubular limb members, reinforcement suture and cuffs at the ends of the graft, attention is directed to the embodiments illustrated in figures 1 and 3A-7A of the same reference, which teach stent/structural support attached to the graft to support each end of the graft or/and through out the graft, wherein the stent can be disposed inside the graft (fig. 6C, col. 13, lines 6-27) or outside the graft (figs. 3A-5H and 7A), reinforcement sutures being used to secure the stent and the graft together (col. 9, lines 39-46) and wherein the end of graft (83) may fold back over the stent to form cuffs (col. 12, line 56 to col. 12, line 26). Therefore, it would have been obvious to one skill in the art at the time the invention was made to employ into the vascular graft illustrated in figs. 12 and 13 of Cox et al. reference following features:

- Stents and support structures in order to support the graft in an opening configuration and anchor the graft to the wall of a body lumen;

Art Unit: 3731

- Reinforcement sutures in order to further secure the stent and the graft together; and
- Fold back the ends of the graft in order to improve the seal between the ends of the graft and irregular body lumen.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Inoue (5,976,179) disclose a stent graft including a fold back end of a graft covering a stent, disposed exterior of the graft.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to (Jackie) Tan-Uyen T. Ho whose telephone number is (703) 306-3421. The examiner can normally be reached on MULTIFLEX Mon. to Sat.. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Milano can be reached on (703) 308-2496. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 305-3590 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.



(Jackie) Tan-Uyen T. Ho  
September 21, 2002



MICHAEL J. MILANO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700